

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NORTHWEST ADMINISTRATORS, INC.,

Plaintiff,

v.

SEALY MATTRESS MANUFACTURING
COMPANY, LLC, a Delaware limited
liability company,

Defendant.

NO.

COMPLAINT TO COMPEL AUDIT

I.

Plaintiff, Northwest Administrators, Inc., is an organization incorporated under the laws of the State of Washington, with its principal place of business in King County, and is the authorized administrative agency for and the assignee of the Western Conference of Teamsters Pension Trust Fund (hereinafter "Trust").

II.

The Western Conference of Teamsters Pension Trust Fund is an unincorporated association operating as a Trust Fund pursuant to Section 302 of

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Reid, McCarthy, Ballew & Leahy, L.L.P.
ATTORNEYS AT LAW
100 WEST HARRISON STREET • NORTH TOWER, SUITE 300
SEATTLE, WASHINGTON 98119
TELEPHONE: (206) 285-0464 • FAX: (206) 285-8925

1 the Labor Management Relations Act of 1947, as amended, to provide retirement
2 benefits to eligible participants.

3
4 III.

5 This Court has jurisdiction over the subject matter of this action under
6 Section 502(e)(1) and (f) of the Employee Retirement Income Security Act of 1974
7 ("ERISA"), 29 U.S.C. §1132(e)(1) and (f) and under §301(a) of the Taft-Hartley Act,
8 29 U.S.C. §185(a).

9 IV.

10 Venue is proper in this District under Section 502(e)(2) of ERISA, 29 U.S.C.
11 §1132(e)(2), because the Plaintiff Trust Fund is administered in this District.

12 V.

13 Defendant is a Delaware limited liability company.

14 VI.

15 Defendant is bound to a collective bargaining agreement with Locals 455 and
16 986 of the International Brotherhood of Teamsters (hereinafter "Locals"), under
17 which the Defendant was required to promptly and fully report for and pay monthly
18 contributions to the Trust at specific rates for each hour of compensation (including
19 vacations, holidays, overtime and sick leave) said Defendant paid to its employees
20 who were members of the bargaining unit represented by the Locals (such
21 bargaining unit members were any of the Defendant's part time or full time
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1 employees who performed any work task covered by the Defendant's labor contract
2 with the Locals, whether or not those employees ever actually joined the Locals).

3 VII.

4 Defendant accepted the Trust's Agreement & Declaration Agreement ("Trust
5 Agreement") which provides in part:

6
7 Each Employer shall promptly furnish to the Trustees or
8 their authorized representatives on demand any and all
9 records of his past or present Employees concerning the
10 classification of such Employees, their names, Social
11 Security numbers, amount of wages paid and hours
12 worked or paid for, and any other payroll records and
13 information the Trustees may require in connection with
14 the administration of the Trust Fund, and for no other
15 purpose. The Trustees or their authorized
16 representatives may examine any books and records of
17 each employer, which the Employer is required to furnish
18 to the Trustees on demand whenever such examination
19 is deemed necessary or desirable by the Trustees in the
20 proper administration of the Trust. If it becomes
21 necessary for the trustees to retain legal counsel to
22 compel an Employer to furnish to, or permit the
23 examination of books, or records or information by, the
24 Trustees or their representatives, the Employer shall
25 reimburse the Trust fund for all reasonable attorney's
26 fees and court costs incurred by the Trust Fund in
connection therewith, whether or not legal proceedings
were instituted and whether or not such examination
disclosed that the Employer has failed to make
appropriate or timely Employer Contributions to the Trust
Fund.

21 VIII.

22
23 The Trustees of the Western Conference of Teamsters Pension Trust deem
24 it both necessary and advisable to the proper administration of the Trust that their

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1 authorized representatives examine the Defendant's books and records for the
2 inclusive period May 1, 2014 to the Present Date to determine if the Defendant
3 previously reported for and paid to the Trust all of the amounts due for the
4 Defendant's employment of members of the bargaining unit represented by the
5 Trust for said period.
6

7 IX.

8 Despite notification to the Defendant of the Trustees' desire to conduct an
9 audit for the period May 1, 2014 to the Present Date, and demands made upon the
10 Defendant on the Trust's behalf for access to Defendant's records for an
11 examination of them for that period, to date the Defendant has failed and refused to
12 make its records available for the thorough examination the Trustees deem
13 necessary and advisable to the proper administration of the Trust.
14

15 WHEREFORE, plaintiff, on the Trust's behalf, prays the court as follows:

16 1. That the Court enter an Order Compelling Audit under which
17 Defendant shall be directed by the Court, within a specified time, to make available
18 to the authorized representatives of the Trustees of the Trust for the period May 1,
19 2014 to the Present Date:

- 20 1. Time cards for account #209176
- 21 2. Temporary Agency Personnel records for account
22 #209176
- 23
- 24

1 3. Answers regarding the questions about Contracted
2 Drivers/Temporary Agency Personnel for the Denver
3 location (#100082; #103432), stated below:

- 4 •What kind of driving do the Contracted Drivers do when
5 under the direction of Sealy?
6 •Are all of the Drivers doing the same type of job under
7 the direction of Sealy? If not, how would we be able
8 to differentiate the work that they are doing?
9 •Are these locations (both Denver and California) still
10 using Contracted Drivers?
11 •What is the frequency of use for Contracted Drivers?
12 •Are Temporary/Contracted Workers utilized for other
13 positions at these locations within the company?
14 •Has the utilization of Contracted personnel been
15 discussed with the Local Union(s) Business Agent
16 (and if so, to what extent)?

17 4. A definition of each of the "Earnings" codes in the
18 payroll system, as well as an explanation of each
19 unit associated with the earnings codes for all accounts
20 (#100082, #103432, #209176).

21 2. Afford to the authorized representatives of the Trustees of the Trust
22 both ample time and opportunity to examine all such materials of Defendant at such
23 time and at such place as shall be convenient to the Trustees' authorized
24 representatives.

25 3. For judgment against the Defendant for:

- 26 A. All of the Plaintiff's attorney's fees incurred in gaining auditor
27 access to Defendant's records;
28 B. All of the Plaintiff's costs incurred in gaining auditor access to
29 defendant's records, and

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1 C. For such other and further relief as the Court may deem just
2 and equitable.

3 DATED this 4th day of January, 2018.

4 REID, McCARTHY, BALLEW & LEAHY,
5 L.L.P.

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8 _____
9 Russell J. Reid, WSBA #2560
10 Attorney for Plaintiff
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